

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on January 23, 2001 at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. John Cobb (R)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Emily Stonington (D)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 21, 1/16/2001
SB 144, 1/16/2001
SB 161, 1/16/2001
SB 168, 1/16/2001

Executive Action: None

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 144

Sponsor: SEN. LINDA NELSON, SD 49, MEDICINE LAKE

Proponents: Judy Paynter, Dept. of Revenue
Cathy Muri, Dept. of Administration

Opponents: None

Opening Statement by Sponsor:

SEN. LINDA NELSON, SD 49, MEDICINE LAKE. This bill was sponsored for the Department of Revenue. This bill changes which state agency is responsible for handling the County Treasurer Collection Report that is submitted to the state monthly. This report is the reporting and transferring of money that the county treasurer collects and transfers to the state. The bill would change the responsibility for processing the report and depositing the money from the Department of Administration to the Department of Revenue. The reason for this is the recent de-earmarking of many of the states' special revenue accounts by the Legislature has increased the number and the amount of county collections deposited in the states' General fund. Department ownership of these revenues for purposes of assuming monitoring responsibilities is not clear in the current law. There is little audit oversight over these collections which amount to approximately \$300,000,000 per year. Most of these funds are deposited into the general fund. The Dept. of Revenue is responsible for recording these revenues into the state records and monitoring the general fund collection. Various groups have been working on issues related to county collections since 1997. To avoid duplication, one agency should be given authority to monitor all property tax and other revenue collections sent to the state from the counties. The Dept. of Revenue handles the property tax and the general fund revenue collections. It has the expertise to perform the monitoring work that is necessary on the County Treasurer Collection Report.

Proponents' Testimony:

Judy Paynter, Department of Revenue. The purpose is to have one agency, the Dept. of Revenue, that has the revenue data basis and the staff expertise to monitor the state revenues collected by the county treasurer. Currently, the Dept. is responsible for recording most of this revenue into the general fund. There are over 100 lines on the County Treasurer Collection Report with as many as twenty different revenue sources included on one line. There are seventeen state agencies involved in receiving these funds from the 56 counties. There has been considerable work

done on the difficulties incurred by both state and county personnel in trying to communicate and reconcile concerns about the collections. This would improve communications and allow the forms to be developed in accordance with how the money is monitored for state revenue estimates and give the counties and state agencies a key contact person to resolve discrepancies or concerns. A close examination of the county collection process started when the Office of Public Instruction and the Office of Budget Program and Planning had some concerns about the amount of revenue collected for certain of these funds. These agencies came to the Dept. of Revenue and requested a review of the funds received. However, there was no process in place to provide an overview of these collections and to give reasonable assurance of their accuracy. This bill will correct these problems. She handed in a section by section description of the bill
EXHIBIT(los18a01).

Cathy Muri, Department of Administration. The Administration Dept. supports the transfer of county collections to the Dept. of Revenue. One amendment that the Dept. would recommend is the following: in Section 1, it refers to "special audits of local government financial records, that the Dept. may conduct or contract for." The department referred to here is the Department of Commerce and not Administration. This section should be deleted from the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

SEN. NELSON closed. The recommendation by **Cathy Muri** for an amendment was agreeable with her. She requested the Legislative Staff person to handle this.

HEARING ON SB 21

Sponsor: SEN. MACK COLE, SD 4, HYSHAM

Proponents: James Reno, Yellowstone County Commissioner
Robert Schmidt, Fire Chief, Livingston and President
of Montana Fire Chiefs Assoc.
Mike Batista, Department of Justice
Jane Jelinski, MT Assoc. of Counties
Bill Myers, Big Fork
Mike Collins, Helena

Opponents: **Mona Jamison, Fireworks Assoc.**
Mike Maeder, Liberty Fireworks, Great Falls and
President, Big Sky Pyrotechnic Assoc.
Blaine Martin, Operations Manager, R&S Marketing,
Bozeman
Annette Kunda, Wild Coyote Fireworks, Belgrade
Kitty Krohne, The Last Stand Fireworks, Livingston
Tom Lawrence, Elder, Christian Center Church, Bozeman
Andee Malarchick, Belgrade.
Vic Reichenbach, Reichenbach Fireworks, Billings
Webb Brown, MT Chamber of Commerce

Opening Statement by Sponsor:

SEN. MACK COLE, SD 4, HYSHAM. Senate Bill 21 was requested by some local government people in Montana. This is not a bill to stop the sale of fireworks. This is a bill to give county governments the same rights to regulate fireworks as city councils have. The Legislature is always looking for ways to give control back to local governments. He handed in an amendment **EXHIBIT (los18a02)**. This amendment takes out any words that pertain to "sale."

Proponents' Testimony:

James Reno, Yellowstone County Commissioner. This bill asks the Legislature to give the counties the same authority that has been given to cities. The county could control open fires last year but could not control fireworks. Lockwood has 7,000 people and is unincorporated. Their fire chief requested a ban on fireworks **EXHIBIT (los18a03)**. That was not possible. The county could ban burning but not fireworks. The county could not help those people and others like them because it is for the most part a state issue.

Robert Schmidt, Fire Chief, Livingston and President of Montana Fire Chiefs Assoc. There are 120 members and he asked those who were able to attend to stand. (About 20-25 men stood.) He was aware of areas of collaboration concerning SB 21. They were willing to work on those issues. They were told that their appearance is moot and the issue had already been defeated. It appears a section of Montana Code Annotated (MCA) addresses this issue. If that is true, the fire chiefs of Montana would not be in front of you now. They do not need another law of ambiguity in the MCA. They are willing to work with others to make this bill more definitive for the fire chiefs of the communities and areas that they protect.

Mike Batista, Department of Justice. Part of his responsibilities is the oversight and management of the state fire marshal's office. They support this bill with the caveat that they have been working with the Fireworks Association on a number of issues that will enhance public safety in the state. Counties are not afforded the same authority that cities and towns have concerning the regulation of fireworks. At this point he was not sure if that is true today. He has spoken with the sponsor and they are willing to work with all parties to spell out in detail, under what conditions, the use of fireworks could be regulated.

Jane Jelinski, MT Assoc. of Counties. MACO is in support of the bill as it is an important public safety issue. They would support the bill as amended. County commissioners work closely with nonprofit organizations and realize they get revenue from the sale of fireworks. They would not want to jeopardize this avenue of revenue.

Bill Myers, Big Fork. He had a problem in their small community with fireworks being set off. They are unincorporated in Flathead County; therefore, they are a part of the county. People blow off fireworks anywhere in that area including the downtown district. He was not here to oppose the sale of fireworks. In an area where the buildings are in close proximity, fireworks become a big problem. In his specific location, his business, Pointer Scenic Cruises, is in Bayside Park & Marine Center which is in downtown Big Fork. Fireworks have been shot over his boats, over the docks, over his building and property. Adjacent to him is the public dock of Big Fork that extends 135 feet into Big Fork Bay. On numerous occasions and for hours on end, people have blown off huge fireworks on this dock. This is hazardous. Something should be done.

Mike Collins, Helena. The concept of this bill is good. People need to be educated as to the reason a bill like this is needed. He is a contract fire management specialist and he has seen times when this is necessary. He is not for the banning of fireworks.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Opponents' Testimony:

Mona Jamison, Fireworks Assoc. There is a section in MCA, 50-37-105 that states bottle rockets are illegal **EXHIBIT(10s18a04)**. People are acquiring them illegally. Legitimate fireworks businesses are not making nor selling them. Also, the laws the Legislature pass do not apply to the Indian reservations in

Montana. Possibly these illegal purchases are coming from there.

She believes the law already exists giving the counties the authority. This law appears to be in Sections 10-3-402 and 10-3-403. County authority laws usually appear in Title 7. And here these laws are in Title 10 **EXHIBIT(los18a05)**. Title 10 is entitled: the disaster and emergency services section of the law. A brief summary of these sections are: a local emergency proclamation or disaster declaration may be issued only by the principal executive officer of a political subdivision. A political subdivision in Montana is a county. That would mean county commissioners. They would probably have their county attorney draw this declaration up.

If any amendment were to be added to this bill, she asked that it be a matter of codification. It could also be placed in Title 7. However, she cautioned them about the language that would be used. This was her biggest problem with the bill. On lines 17 through 20, which would go into Title 7, it states "county governing body may in its discretion ban the use of fireworks" and "if the governing body finds that the ban is necessary to protect the lives, homes or property of county residents." Before a governor or a local unit of government can declare a disaster or emergency, they have tough standards of requirements to follow. Those words are defined in Title 10. The reason the standards are tough is when a disaster or emergency proclamation is issued, business and certain activities can be ordered to stop. Once that proclamation is issued, certain things can no longer continue. In her opinion the standard contained in lines 19 and 20 coupled with the use of the word "discretion" lowers the bar. Therefore, local government control would no longer be as responsible. She was willing to work on an amendment, but would insist that the standard be no less than what municipalities clearly have and what the standard is for the governor and counties as directed by Title 10.

There are those who just don't like the noise of firecrackers. The statute is clear in that it limits the number of days and what kind of fireworks is legal and what permits are necessary to sell fireworks. Are more laws necessary to tell people what they can and cannot do?

Mike Maeder, Liberty Fireworks, Great Falls and President, Big Sky Pyrotechnic Assoc. They have been working closely with Terry Phillips and John Vein from the State Fire Marshal's office to propose some changes in the Administrative Rules of Montana (ARM) that are directed toward safety with fireworks. Statutes have to be clarified for the State Fire Marshal's office for their

enforcement of the ARM's. Safety is the number one concern for businesses that sell fireworks. The rate of injuries has gone down dramatically in the past 10 years. The use of fireworks in the U.S. has increased dramatically. The fireworks that are considered unsafe are already banned. There are some fireworks that are legal but can also be dangerous when people don't use them properly. His group does not want bad things to happen, fires to happen, or people to get hurt because that is bad for their business. The truth about fireworks is often twisted. If children are hurt, they are usually not supervised. Warnings are on all packages that children should be supervised. With the amount of fireworks that are blown off each year, there are only 8000 injuries; that is remarkable. The Consumer Product Safety Commission (CPSC) includes in those figures such injuries as M-80's. M-80's are not consumer fireworks; they are explosives or bombs. There are criminal penalties for misuse of M-80's. Altered fireworks are included in this 8000. He did not believe that one child has had their finger/fingers blown off by a regular firecracker. The most that would happen is a burn because of the safety standards.

In emergencies, such as the fire season last summer, they would not be opposed to closures. According to Mona Jamison's testimony, the purpose of this bill is already covered in Section 10. With 56 counties in Montana and under this bill, there would probably be 56 different sets of rule and regulations. That would be a nightmare for wholesalers.

Blaine Martin, Operations Manager, R&S Marketing, Bozeman. R&S Marketing employ 20-50 people in Bozeman alone. The sales are over \$1 million in Montana. The company serves many nonprofit organizations who rely on fireworks sales. His company looks closely at the fireworks that are sold and sets high standards that go beyond AFSL or CPSC. They do not want people to get hurt. His company conducts tests of their own. They will not sell some items that CPSC allows. This bill would force people out of business. There are already statutes in law to cover the issues in this bill. Education is probably necessary, but not this bill.

Annette Kunda, Wild Coyote Fireworks, Belgrade. She gave her testimony and handed in a written copy **EXHIBIT(los18a06)**.

Kitty Krohne, The Last Stand Fireworks, Livingston. She theorized that SB 21 would give the counties the authority to ban fireworks. The counties have the ability now to ban fireworks in certain areas. Park County has used that statute. This bill will give the county the ability to put her out of business. That is not right. The amendment was a complete surprise to her

because of the constant contact she has had with **SEN. COLE**. She felt she should have been made aware of the amendment. She maintained that the state should retain control of fireworks sales and use. The Montana Association of Counties agrees with her that SB 21 should not pass out of committee. A letter was handed out from the Livingston Area Chamber of Commerce **EXHIBIT (los18a07)**.

Tom Lawrence, Elder, Christian Center Church, Bozeman. Churches and organizations around the state use fireworks sales as a source of fund raising to support their ministries and their programs. A letter from his pastor, Mr. Dale Geddy, was sent to all committee members. His church uses their proceeds to support single mothers, supply food for the homeless, build youth programs, develop campus ministries and provide funds for missionaries overseas. Monies raised from these sales is vital to the existence of some churches and community organizations. There are 22 Assembly of God churches in the state that utilize fireworks sales to fund their ministries. Senate Bill 21 would destroy many of these programs that care for these people in Montana.

{Tape : 2; Side : A; Approx. Time Counter : 0-The tape was turned in the middle of Mr. Lawrence's testimony.}

The Billings Heights Exchange Club sent a letter to the committee with regard to their position on this bill. They sell fireworks in Yellowstone County and would like to continue to do so. They feel this bill is overstepping its boundaries. Last week there was a letter in the Bozeman Daily Chronicle that reported Montana being the third largest recipient of federal funds and that means Montana is a welfare state. If SB 21 passes, it will close hundreds of businesses and organizations around the state.

Andee Malarchick, Belgrade. She declared that Montanans are independent and do not need protection from themselves. She was opposed to SB 21 because there is already in law provisions for the counties. The people of Montana are smart, self-reliant and independent. Banning the sale and use of fireworks at any time, though not during a severe drought, insults the intelligence of Montanans. This is a limitation on people's freedoms. She gathered signatures on a petition against SB 21. There were 141 people who signed **EXHIBIT (los18a08)**. This was done in an afternoon. People are opposed to this bill.

Vic Reichenbach, Reichenbach Fireworks, Billings. He has been in this business for 55 years. There have been many changes over the years. More are being sold and the product has been made much safer. People on the Indian reservations might like to see

this bill passed. That would give them more customers since Montana law does not have jurisdiction over them. The state should retain jurisdiction over the counties and have one set of rules and regulations.

Webb Brown, MT Chamber of Commerce. The Chamber rises in opposition to SB 21 for the reasons already stated.

Questions from Committee Members and Responses:

SEN. DON HARGROVE wanted to know if any of the fires last summer were started by fireworks. **Mike Batista** believed that answer would be no. **SEN. HARGROVE** asked what control is there in an unincorporated area. **Mr. Batista** thought he had known the answer to that question earlier, but after Mona Jamison's testimony that may be changed. **Robert Schmidt** said that there may be some statute that leaves counties a vehicle to address the issue. Montana fire chiefs are caught in the same dilemma. There needs to be a clearly defined statute for all concerned.

SEN. JOHN BOHLINGER responded to the previous question in that there was an editorial in the Billings Gazette that stated the Billings city fire department responded to some 30 fires that were caused by fireworks and the one behind the airport cost some \$10,000 to fight. In addition to those 30 fires, there were some other 30 fires fought by the Lockwood Fire Department. (Lockwood is close to Billings and unincorporated.)

SEN. BOHLINGER stated that with the amendment, the bill would only stipulate that the counties have authority to regulate the use of fireworks. Would the counties rely on the fire department to designate areas that would be considered safe for exploding fireworks. **SEN. COLE** responded that with the amendment, the bill does not address regulating the sale of fireworks. It only addresses the use of fireworks.

SEN. BOHLINGER inquired if, under SB 21, it becomes the responsibility of the local governing bodies to regulate the use of fireworks, how would Yellowstone County set this up. **Jim Reno, Yellowstone County Commissioner** answered that a full range of discussions would be held between those who sell and those who are with the rural fire districts: how they will be used, who will supervise, hours, etc. The rural fire departments are the ones who need to be making many of the decisions since they put out the fires. Possibly a baseball field could be supervised by a rural fire department thereby allowing people to set off firecrackers.

SEN. CHRIS CHRISTIAENS stated that after listening to the testimony with MACO in opposition, was this group aware of the law, 50-30-501 and 10-3-402 and 403 and how these might play in the issue. **Jane Jelinski, (MACO)** claimed that MACO supports the amended bill that provides for regulation of the use. MACO was opposed to the original bill that banned the sale. MACO has not had the opportunity to discuss the statutes that were brought forth. Title 10 statutes, referenced by Miss Jamison, have been used numerous times in her role as county commissioner in Bozeman. The standard has to be very high before anything can be done. These standards are far beyond what the intention of this bill is.

SEN. CHRISTIAENS asked that with the amendments what is **Ms. Jamison's** stance at this point. **Mona Jamison** replied that she had seen an amendment 10 minutes before the hearing. She did not believe it was the same amendment that **SEN. COLE** described. She felt she had not seen the proposed amendment yet. She believed that counties should not have the authority to impose more stringent limitations than the governor or municipality.

SEN. JOHN COBB said that he has read the bill two different ways. On line 17 to 20, the governing body may, at its discretion, regulate fireworks. To read this by itself, it implies that the county could regulate the businesses in any way they might decide. But just above in Section 1, a county may declare a fire season which means a person cannot ignite a fire, etc. Is this suppose to be a separate statute by itself or is it tied to the fire seasons in some way. **SEN. COLE** felt this needs to be addressed by the legislative staff. He only wanted to get the same authority for counties as the cities already have.

SEN. JIM ELLIOTT said there are two different issues here. If the regulation language banning the sale of fireworks were removed, would your group withdraw its objection to this bill. **Ms. Jamison** responded if the word "banning sale" is taken out, it would improve the bill. But the bottom line is you can't have "use" without sale. This would be a trickle-down impact on sale if the use is banned.

SEN. ELLIOTT asked how far in advance do the fireworks folks begin to plan their inventory, sales, etc. **Mike Maeder** replied, for wholesale companies, orders go in a year ahead of time. For retail level, those orders can start to come in by February. By the second week of May, orders are being delivered.

SEN. ELLIOTT said that, as far as the industry was concerned, if there were a fire danger the industry would want that to be a very serious fire danger before they would agree to a ban on the

use of fireworks. **Mr. Maeder** replied that the industry realizes the gambling nature of the business and would be willing to do whatever is necessary.

{Tape : 2; Side : B; Approx. Time Counter : 0}

SEN. HARGROVE wondered if someone would explode a firecracker in an area that had been restricted by the county, would the penalty be six months in jail and/or a fine of \$500. **Ms. Jamison** explained that would be a misdemeanor and that would be the penalty. Even if SB 21 amends the word "sale" out, it would be unlawful to use under whatever standard is adopted. A person in violation could be prosecuted for a misdemeanor and be subject to imprisonment and a fine.

CHAIRMAN DALE MAHLUM requested **Peaches Peterson** to come to the podium. He then asked her opinion of where people would go to buy fireworks if they were not allowed to sell their product. **Peaches Peterson, Beehive Fireworks, Missoula** replied that most would go a few miles north to the reservation to buy any kind of fireworks they might want. What is sold on the reservation can be used there, but not necessarily off the reservation.

The tape recorder malfunctioned and testimony was not recorded.

CHAIRMAN MAHLUM asked **Mike Brown** who owns **R. Brown and Co., Missoula** the same kind of question. He replied that if SB 21 were passed without the amendment, his business would be ruined.

Closing by Sponsor:

SEN. COLE closed.

HEARING ON SB 161

Sponsor: **SEN. DON HARGROVE, 16, BOZEMAN**

Proponents: **Jon Dilliard, Dept. of Environmental Quality**
Frank Crowley, Representing the City of Billings
Will Selser, Lewis & Clark County, Solid Waste
Association of Montana (S.W.A.M.)

Opponents: **None**

Opening Statement by Sponsor:

SEN. DON HARGROVE, SD 16, BOZEMAN gave his opening statement. The tape recorder was not working. The title of his bill was: "An act revising and clarifying the authority of the Department of Environmental Quality and the Board of Environmental Review to establish and assess fees related to solid waste; authorizing the Department to assess penalties for late or nonpayment of all solid waste management fees; repealing the quarterly solid waste management fee of \$5 per ton on the in-state disposal or incineration of out-of-state waste; repealing the moratorium on certain interstate transport of solid waste and amending several sections.." He had stated that this was a clean-up bill. The DEQ had reviewed the original law of 1991 and found duplications and inconsistencies and felt the necessity of making these corrections.

Proponents' Testimony:

Jon Dilliard, Dept. of Environmental Quality (DEQ). He gave his testimony and handed in a copy **EXHIBIT(los18a09)**. He proposed an amendment and handed in a copy **EXHIBIT(los18a10)**.

The tape recorder started to run toward the end of Mr. Jon Dilliard's testimony.

Frank Crowley, Helena. He was representing the City of Billings. As the operator of one of the largest sanitary landfills in the state, the City of Billings does not lightly support an increase in fees from the state. They were assured by the Dept. on how the increased fees would be used. In the next biennium, these increased fees will be devoted to seeking and hiring technical staff that are needed to properly and promptly resolve the complex technical engineering and environmental issues that the new federal and state regulations have prompted for municipal landfills. The City also understands the fees will not be used to fund an expansion. With respect to some of the technical changes, especially the change of using the Board of Environmental Review to adopt the fees, the City believes that the use of this Board does provide a good procedural filter for assuring that the fees will be limited to funding identified program needs. On this issue the City is assured by the Dept. that they will not be going to the Board on a regular basis for fee increases. This is a concern with the Board. Because the Dept. can approach the Board at any time for an increase. The Dept. will be participating actively in rule making before the Board for adoption of fees to make sure any increases in fees will be appropriate. The City appreciates the amendment on tonnage. The City regards tonnage to be a more exact measure of assessing fees and the City supports this amendment.

Will Selser, Lewis & Clark County, S.W.A.M. He agreed with the previous comments. If the process is applied appropriately, it would actually resolve into some reduced cost to their operations. The state has the ability to deal with the complex issues as solid waste facilities eroded for lack of resources. If this does allow them to increase their capacities at the staff level, it will turn out to be a good thing for them and their clients.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER was wondering if SB 161 passed, would Montana become a collection point for out-of-state garbage or waste.

SEN. HARGROVE did not believe that would happen. In fact, this bill might be a deterrent.

SEN. BOHLINGER further questioned what the statement, "repealing the moratorium on certain interstate transport of solid waste" means.

Jon Dilliard replied that the main reason for repealing that statute is it has in many courts across the U.S. been decided that prohibition of importation of waste across state lines is a violation of the U.S. Constitution of the U.S. Dormant Commerce Clause. Montana State has not been challenged as of this date, but in review, the state would not be successful if so challenged. He was doubtful that Montana would see much more imported waste than it does already. In early 1990, when the Environmental Protection Agency (EPA) revised the regulations for the disposal facility, it raised the bar and put all landfills on the same level as to how they must dispose of the waste and how to handle the waste. Because of this, there is not a significant difference in the disposal rates between one state and another. It would be questionable for an eastern state to pay the cost to ship it to Montana to dispose of it when the cost of disposal here would not be significantly lower.

SEN. DUANE GRIMES asked exactly who will be assessed these fees.

Jon Dilliard reported that the fees are assessed to solid waste management facilities that are required to be licensed by the Department for disposal and management of solid waste.

SEN. GRIMES asked if there are any private solid waste management companies. **Jon Dilliard** responded that yes there are private facilities. There is a solid waste landfill in Missoula and there is one in the Great Falls area.

SEN. GRIMES inquired if there are any facilities in competition in those cities or is it regulated so that the facility in Missoula is the only one handling waste. **Mr. Dilliard** stated that in Missoula and Great Falls, there are no facilities in direct competition. However, there is nothing in the statutes that would prohibit competition.

SEN. GRIMES wondered how this might affect the interaction between existing facilities if the fee schedules could be different and how would this affect small entities.

{Tape : 3; Side : A; Approx. Time Counter : 0; Comments : Changed in the middle of Mr. Dilliard's answer.}

Mr. Dilliard explained that the fee schedule of the Department done through the rules would be uniform throughout the industry. The fees could be slightly higher or lower for each facility of the same type and size, but would be uniform across the board. The Department is not looking at drastic changes that would put anyone out of business.

SEN. GRIMES questioned if the Department had received any complaints from the smaller cities. **Mr. Dilliard** reported that they had not received any opposition. They had discussions with various operators concerning this bill. Their concern has been, "what are we going to do." The Department has assured them that the intention of the bill, with the increased fees, would be to bring in expertise help to assist them. This has been acceptable.

SEN. GRIMES reiterated that the fee increase is to defray the cost of helping districts who are receiving maintenance and operation of the district. **Mr. Dilliard** answered that Section 1, (2) was added in the early 1990's when the fee structure was originally set up in the statutes. The reason for this was there was a requirement in the statutes that these districts, whenever they changed their fees, would have to have a series of public meetings concerning the change. The Legislature did not want to impose that same requirement on them just to raise their fees if they had to raise their fees to meet the new fees that were coming out at that time.

SEN. BOHLINGER returned to his original issue and asked if the environmental community had weighed in on this bill.

Mr. Dilliard has not heard anything from this group of people and have not had any significant interactions with them. The local health departments are well aware of this bill and have not expressed any concerns.

Closing by Sponsor:

SEN. HARGROVE closed.

HEARING ON SB 168

Sponsor: SEN. EMILY STONINGTON, SD 15, BOZEMAN

Proponents: Jon Dilliard, Department of Environmental Quality
Loretta Miller, Green Meadow Auto Salvage, Helena
Jim Dusenberry, J & D Truck and RV Towing, Helena
Bob Gilbert, MT Automobile Dismantlers and Recyclers
Assoc. and MT Tow Truck Assoc.
Travis West, Director, Environmental Health Dept.,
Stillwater County
Jan Ivers, Sanders County Junk Vehicle Program
Clay Williams, Park County Junk Vehicle Program
Dan Hooten, Ravalli County Land Services
Rod Fink, Sweet Grass County Sanitarian
Dave Fowler, Gallatin County Junk Vehicle Program
Jane Jelinski, MT Assoc. of Counties
Joyce Searle, Ravalli County Compliance Inspector

Opponents: Henry Lohr, Hank's Salvage and Recycling, Helena

Opening Statement by Sponsor:

SEN. EMILY STONINGTON, SD 15, BOZEMAN. The counties have a Junk Vehicle Program that began in 1973. It provided the ability for the county to come out to your property and pick up an old, immobile vehicle. This program is funded through fees that are collected first on vehicle title transfers (\$1.50), on vehicle registration (\$.50) and on the motor vehicle wrecking facility licensing (\$50.00). In addition, the scrap metal from these vehicles are sold on the scrap metal market. The money is then dispersed 2-4 times a year as grants back to the counties to fund their collection of these junk vehicles.

Their surplus balance has shrunk because of reduced fees by the Legislature. The counties have been holding their own until now. Two things have happened. The scrap metal market has taken a serious dive and the fund balance has declined because the counties have been spending down their surplus balances. This

bill is requesting increases in all three of the fees in order to keep the program whole. The new fees would be \$2.00 on vehicle title transfers, \$1.00 on vehicle registration and \$100.00 on the motor vehicle wrecking facility licenses.

Proponents' Testimony:

Jon Dilliard, Department of Environmental Quality. He gave his testimony and handed in a written copy **EXHIBIT(los18a11)**. He also handed in a "Junk Vehicle" Program Stats **EXHIBIT(los18a12)**.

Loretta Miller, Green Meadow Auto Salvage, Helena. They support the bill. The Junk Vehicle Program is a good one and this is the first time the state has asked for an increase in fees. They have been in business for sixteen years and have paid \$50/year fees. That has to be remarkable in view of all the other fees and increases that they have had to pay. Their profits have gone up and the increase will not be a hardship.

Jim Dusenberry, J & D Truck and RV Towing, Helena. The MT Tow Truck Assoc. is in support of this bill. If this program is not funded, the tow truckers would be called out to remove junk vehicles and they do not receive payment. Currently he has 12 vehicles in his back yard that would fit into this category.

Bob Gilbert, MT Automobile Dismantlers and Recyclers Assoc. and MT Tow Truck Assoc. Two years ago, scrap iron was \$40 a ton, one year ago it was \$18 a ton and today it is \$8 a ton which shows that the money that supported this program has fallen dramatically. This is a good bill to keep the environment clean. Great progress has been made and it would not be good to lose this program. This is for the betterment of Montana.

Travis West, Director, Environmental Health Dept., Stillwater County. We support this program. In Stillwater County, abandoned vehicles are picked up by the Sheriff's Dept. and it is the Junk Vehicle Program that disposes of them if no one claims the vehicle. The Toole County Junk Vehicle Administrator also supports this bill.

Jan Ivers, Sanders County Junk Vehicle Program. This program has improved the landscape of Montana greatly over the years. This is a self-supporting program. It is a successful program in meeting the recycling effort.

Clay Williams, Park County Junk Vehicle Program. They support this bill wholeheartedly. He handed in a letter of support from the Park County Commissioners **EXHIBIT(los18a13)**.

Dan Hooten, Ravalli County Land Services. In 1997, the county picked up 468 junk vehicles. In 1998, there were 400; in 1999, there were 418. There is approximately one call per week concerning junk vehicles. This bill will make it possible for the county to continue. Without the bill, Ravalli County would not be able to extend this program.

Rod Fink, Sweet Grass County Sanitarian. He has been involved in the Junk Vehicle Program in one way or another since its inception. With the increasing costs of disposing of these vehicles, it is necessary to have the increase in fees. This program also covers abandoned vehicles. This is important for the tourism industry as well as for the beauty of Montana.

Dave Fowler, Gallatin County Junk Vehicle Program. Gallatin County ran out of money last year and were unable to carry on. Thanks to the Road Dept. and the Commissioners, the program did finish out the year. The increase is imperative. Abandoned car sales do not bring enough money into the program.

Jane Jelinski, MT Assoc. of Counties. We support this excellent bill.

Joyce Searle, Ravalli County Compliance Inspector. The Northwest Montana Sanitarians Association is in support of this bill **EXHIBIT(los18a14)**.

Linda Stoll, MT Local Health Officers Group. This is an organization of the public health officers of seven counties: Butte/Silver Bow, Cascade, Gallatin, Lewis & Clark, Flathead, Missoula and Yellowstone. She submitted written testimony from three counties **EXHIBIT(los18a15)**, **EXHIBIT(los18a16)**, **EXHIBIT(los18a17)**.

A letter was sent to **CHAIRMAN DALE MAHLUM** from Lake County in support of the bill and entered as **EXHIBIT(los18a18)**.

Opponents' Testimony:

Henry Lohr, Hank's Salvage and Recycling, Helena. He wondered how much abandoned vehicles draw from the fund. The information was interesting to him.

Questions from Committee Members and Responses:

SEN. DUANE GRIMES asked for a response to **Mr. Henry Lohr's** statement. **Jon Dilliard** replied that if his question was how much money is going to be dedicated to the towing of abandoned vehicles, the Department's budget for that is \$205,000 annually.

SEN. GRIMES further asked for a comparison to junk vehicles.

Mr. Dilliard said that junk vehicles are county grants given to the county and that is nearly \$1 million.

SEN. GRIMES inquired what percentage of a tow truck business would come from the junk vehicle portion as opposed to the abandoned vehicle portion. **Jim Dusenberry** responded the Junk Vehicle Program would not impact his abandoned vehicles as long as the Junk Vehicle Program works. They come in under the abandoned vehicles portion. The sheriff would call for a tow. A payment would be submitted for the hired tow. Everything would be covered.

Closing by Sponsor:

SEN. STONINGTON closed. She asked the Committee to view the charts that **Mr. Dilliard** had handed out. The charts show how the program works, where the stresses in the program are and what the Department is asking for. The chart on page 3 shows the funding sources. The chart on page 6 shows how the money is used. The abandoned vehicle portion occurred in 1999. This allowed a portion of the monies to be used for abandoned vehicles.

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EXECUTIVE ACTION ON COMMITTEE BILL

CHAIRMAN MAHLUM had asked **Gordon Morris** to speak to the Committee concerning a committee bill. This bill would speak to the issue of how much money the Forest Service revenues give to the counties. If the Committee agrees, it will become a committee bill. Seventy-five percent of the Committee must approve this committee bill.

Gordon Morris reported that as of last Friday, he was able to meet with Forest Service representatives and confirm what they had believed to be the case all along and that was they would have to revise the Montana Code relative to the allocations of the Forest Reserve Receipts to conform to the provisions of the public law passed by Congress this past year. They are asking the Committee to consider bringing a bill that basically would give the County Commissioners the option of going from the current 25 percent program to what is referred to in the new bill as the Full Payment Program. The package handed out

EXHIBIT (los18a19) gives a synopsis of the dollars that are involved. It is urgent to get this bill out. Otherwise, the

counties would forego the ability to opt to get the Full Payment Provision of the new law. That would leave \$7 million on the table.

Motion/Vote: SEN. BOHLINGER moved that a COMMITTEE BILL be looked into. Motion carried unanimously. A Subcommittee was appointed. They are Senators Stonington, Christiaens, Grimes and Bohlinger. Sen. Bohlinger will Chair the Subcommittee.

EXECUTIVE ACTION ON SB 138

Chairman Mahlum appointed a Subcommittee for SB 138. The Subcommittee members are Senators Cobb, Elliott, Bohlinger, Miller, and Glaser. Sen. Glaser will Chair the Subcommittee.

ADJOURNMENT

Adjournment: 6:00 P.M.

SEN. DALE MAHLUM, Chairman

MARY GAY WELLS, Secretary

DM/MW

EXHIBIT (los18aad)